

**MAY 2003 AGENDA**

SUBJECT	X	ACTION
		INFORMATION
	X	PUBLIC HEARING
Proposed Formation of Dixie-Terra Linda Unified School District from Dixie Elementary School District and a Portion of San Rafael City High School District in Marin County		

Recommendation:

Adopt the attached proposed resolution disapproving the petition to form a new unified (K-12) school district from Dixie Elementary School District and a portion of San Rafael City High School District in Marin County.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education (SBE) has not heard this issue previously.

Summary of Key Issue(s)

The action to form a Dixie-Terra Linda Unified School District (SD) was initiated pursuant to *Education Code* Section 35700(a), which requires a petition signed by a least 25 percent of the registered voters residing in the territory proposed for reorganization.

The Marin County Office of Education (MCOE) employed an outside consultant to analyze the effects of the proposed unification on the nine required conditions for approval listed in *Education Code* Section 35753(a). This analysis, which is included as Attachment 3, determined that six of the nine criteria are met and that no determination can be made on the remaining three until other conditions are addressed. The Marin County Committee on School District Organization (MCC) determined that the proposed unification complies with all the criteria of *Education Code* Section 35753(a) and voted 7-4 to approve the petition. The MCC then voted to recommend expanding the election area to the entire San Rafael City High SD.

Both San Rafael City High SD and San Rafael City Elementary SD are in opposition to the proposal. Dixie SD has taken a position in support of the proposal.

California Department of Education (CDE) staff found that two conditions of *Education Code* Section 35753(a) were not substantially met. Accordingly, staff recommends that the SBE disapprove the proposal. Staff's analysis is provided as Attachment 1. A proposed resolution denying the petition is provided for the SBE's consideration as Attachment 2.

Fiscal Analysis (as appropriate)

San Rafael City High SD currently is a basic aid district and the two elementary districts are state aid districts. If the proposed Dixie-Terra Linda Unified SD is formed, the San Rafael City Elementary SD will, by operation of law, also unify with the remainder of the high school district. It is possible that these unifications will eliminate basic aid funding. If both new districts are state aid districts, CDE staff estimates that revenue limit funding will increase approximately 5 percent over the amount currently provided to these districts.

No other effects on state costs due to the proposed reorganization have been identified.

Attachments

- [Attachment 1:](#) Report of Required Conditions for Reorganization (Pages 1-27)
- [Attachment 2:](#) Proposed Resolution (Pages 1-1)
- Attachment 3: “Feasibility Study of the Proposed Reorganization and Creation of the Dixie-Terra Linda Unified School District” by MGT of America (Pages 1-54) (This attachment is not available on the web)
- Attachment 4: “Racial and Ethnic Report: Proposed Dixie-Terra Linda Unified School District” by CDE Office of Equal Opportunity (Pages 1-6) (This attachment is not available on the web)
- Attachment 5: “Racial/Ethnic Effects of Proposed Dixie-Terra Linda Unified School District” by CDE staff (Pages 1-5) (This attachment is not available on the web)
- Attachment 6: “Analysis of Educational Program Impact of the Proposed Formation of Dixie-Terra Linda Unified School District from the Existing Dixie Elementary School District and a Portion of the Existing San Rafael High School District” by CDE Policy and Evaluation Division, Research and Analysis Unit (Pages 1-3) (This attachment is not available on the web)
- Attachment 7: “Proposal to Form Dixie-Terra Linda Unified School District from Dixie School District and a Portion of San Rafael High School District in Marin County” by CDE School Facilities Planning Division (Pages 1-2) (This attachment is not available on the web)
- Attachment 8: “Fiscal Analysis of the Proposal to Form Dixie-Terra Linda Unified School District” by CDE Office of Management Assistance and Categorical Programs (Pages 1-10) (This attachment is not available on the web)
- [Attachment 9:](#) Alternative Resolution (Pages 1-1)

**PROPOSED FORMATION OF
DIXIE-TERRA LINDA UNIFIED SCHOOL DISTRICT
FROM DIXIE ELEMENTARY SCHOOL DISTRICT AND A PORTION OF
SAN RAFAEL CITY HIGH SCHOOL DISTRICT IN MARIN COUNTY**

REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION

1.0 RECOMMENDATION

Staff recommends disapproval of the proposal to form a Dixie-Terra Linda Unified School District (SD) from territory of the Dixie Elementary SD and the corresponding portion of San Rafael City High SD. This recommendation is based on the analysis of required criteria (*Education Code*¹ Section 35753), which finds that two of these nine criteria are not substantially met by the proposal.

2.0 BACKGROUND

A petition proposing the formation of a new unified school district formed by the current Dixie Elementary SD and the corresponding portion of San Rafael City High SD was submitted to the Marin County Office of Education (MCOE) on February 13, 2001. Only two elementary school districts are within the San Rafael City High SD, so formation of the proposed Dixie-Terra Linda Unified SD also would result in the unification of the San Rafael City Elementary SD with the remainder of San Rafael City High SD since the boundaries of these two districts would be coterminous upon unification of Dixie-Terra Linda Unified SD (Section 35542).

San Rafael City High SD and San Rafael City Elementary SD are common governing board and common administration districts. Although both districts share the same governing board and district office administrative staff, the two districts are legally separate and distinct districts.

There are two high schools within San Rafael City High SD: San Rafael High with a 2000-01 enrollment of 955 ninth through twelfth grade students and Terra Linda High with a 2000-01 enrollment of 1,055 ninth through twelfth grade students. San Rafael High is within the boundaries of San Rafael City Elementary SD and would become the high school for the new San Rafael Unified SD. Terra Linda High is within the boundaries of Dixie Elementary SD and would become the high school for the proposed Dixie-Terra Linda Unified SD.

At an August 13, 2001, deliberation meeting, the Marin County Committee on School District Organization (MCC) heard the recommendations of their consultant (Attachment 3) and subsequently voted that all nine criteria in *Education Code* Section 35753(a) were substantially met. The MCC, on a 7-4 vote, recommended approval of the Dixie-Terra

¹All subsequent statutory references are to the *Education Code* unless otherwise indicated.

Linda unification proposal. The MCC further recommended that the election area be expanded to the entire San Rafael City High SD.

California Department of Education (CDE) staff disagrees with the MCC determination that all nine criteria in Section 35753(a) are substantially met, finding that the proposal fails to substantially meet the following two criteria:

Criterion 4: The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

Criterion 6: The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.

3.0 REASONS FOR THE UNIFICATION

The chief petitioners cite the following reasons for the proposed Dixie-Terra Linda Unified SD:

- (a) Local control of the high school (Terra Linda).
- (b) Coordinated and integrated curriculum from kindergarten through twelfth grade resulting in higher educational achievement.
- (c) Better fiscal accountability.
- (d) More parental involvement at the high school level.
- (e) Enhancement and more effective use of state revenues through a unified school structure.
- (f) Greater support for the teaching and administrative staff at Terra Linda High School.

4.0 POSITIONS OF SCHOOL DISTRICTS

4.1 San Rafael City High School District and San Rafael City Elementary School District

San Rafael City High SD and San Rafael City Elementary SD (common administration districts) are in opposition to the proposal, primarily focusing on the failure of the proposal (in these districts' opinion) to meet the following three criteria of Section 35753(a).

Criterion 4: The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

Criterion 6: The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.

Criterion 9: The proposed reorganization will not cause a substantial negative effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

4.2 Dixie Elementary School District

The Dixie Elementary SD supports the proposal, finding that the proposal meets all criteria of Section 35753(a) and that “creation of such a district will provide enhanced continuity and articulation and will enrich the educational lives of children from the Dixie-Terra Linda community.”

5.0 SECTION 35753 CRITERIA

The State Board of Education (SBE) may approve proposals for the reorganization of districts if the SBE has determined the proposal substantially meets the nine criteria in Section 35753. Those criteria are further clarified by Section 18573, Title 5, *California Code of Regulations*.

For its analysis of the current proposal, staff reviewed CDE studies of specific issues related to the proposal and the following written information:

- a. Petition for the proposed Dixie-Terra Linda Unified SD, including maps of the area.
- b. “Feasibility Study of the Proposed Reorganization and Creation of the Dixie-Terra Linda Unified School District” prepared by MGT of America, July 19, 2001.
- c. Minutes and audiotapes of the MCC public hearings and meetings.
- d. Various letters and reports in support of and opposition to the proposed unification.
- e. Miscellaneous related reports.

Staff findings and conclusions regarding the Section 35753 and Title 5 conditions follow:

5.1 The new districts will be adequate in terms of number of pupils enrolled.

Standard of Review

It is the intent of the State Board of Education that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: Elementary district, 901; high school district, 301; unified district, 1,501. (Section 18573(a)(1)(A), Title 5, California Code of Regulations)

County Committee Evaluation/Vote

The report prepared by MGT of America for the MCC (hereinafter referred to as

“feasibility study”) indicates that the petition meets this requirement (Attachment 3, page 10).

The MCC voted unanimously (11-0) that this criterion is substantially met.

Staff Findings/Conclusion

As stated previously, a new unified district is adequate in terms of number of pupils if projected enrollment is 1,501 or greater on the date the proposal becomes effective or any new district becomes effective for all purposes. The schools within the proposed Dixie-Terra Linda Unified SD had a combined enrollment of 2,929 in 2000-01 (Source: California Basic Educational Data System [CBEDS]). During that same year, 4,416 students were enrolled in schools within the San Rafael City Elementary SD.

San Rafael City High SD maintains an open enrollment policy and there are a significant number of students (over 300) who attend Terra Linda High School but reside within the San Rafael City Elementary SD. However, the loss of these students from the proposed Dixie-Terra Linda Unified SD would not lower enrollment of the district below 1,501.

Staff concludes that this criterion is substantially met.

5.2 The districts are each organized on the basis of a substantial community identity.

Standard of Review

The following criteria from Section 18573(a)(2), Title 5, California Code of Regulations, should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

County Committee Evaluation/Vote

The feasibility study reports that a topographical feature (Puerto Suello Hill) serves as a *de facto* dividing line between Dixie Elementary SD and San Rafael City Elementary SD. The hill is relatively undeveloped and roads go around it rather than over it. The study indicates that regular traffic, along the highway or surface streets, does tie the two areas together. The study also acknowledges that the San Rafael City High SD area is relatively compact, with 4.1 miles separating the two high schools, a distance that can be traveled in less than 10 minutes under good traffic conditions. (Attachment 3, page 13)

The feasibility study concludes that the proposal substantially meets this criterion.

The MCC voted 7-4 that this criterion is substantially met.

Staff Findings/Conclusion

As is the case in most relatively compact urban/suburban settings, the Title 5 criteria of isolation, geography, and weather are not applicable to the analysis of substantial community identity. No further discussion of these criteria is warranted, as they cannot be used to define community identity in this particular reorganization proposal.

Topographically, the Puerto Suello Hill does generally divide the Dixie and San Rafael elementary school district communities. However, as noted previously, given the relatively compact size of the high school district and the regular traffic ties between the two communities, neither area can be considered isolated from the other.

The two new unified districts would correspond to the boundaries of the existing elementary school districts. Therefore, separate and distinct educational communities already exist. In the past, these elementary school districts have played an important role in establishing the community identity of the area. The new unified districts should continue that role.

Members of the San Rafael community have expressed differing opinions regarding whether or not separate community identities would exist for the two new districts. Some reference the existing separate education communities and the Puerto Suello Hill as support for the existence of two distinct communities. Others note that the greater San Rafael area already is relatively small and arguments supporting community identity of even smaller areas is sophistry since any neighborhood can claim to have a community identity of its own.

Staff finds that the districts would be organized on the basis of a substantial community identity since the proposed Dixie-Terra Linda Unified SD and the new San Rafael Unified SD would correspond to existing school district boundaries and generally would be separated by Puerto Suello Hill. Thus, staff concludes that this criterion is substantially met.

5.3 The proposal will result in an equitable division of property and facilities of the original district or districts.

Standard of Review

To determine whether an equitable division of property and facilities will occur, the California Department of Education reviews the proposal for compliance with the provisions of Education Code sections 35560 and 35564 and determines which of the criteria authorized in Section 35736 shall be applied. The California Department of Education also ascertains that the affected districts and county office of education are prepared to appoint the committee described in Section 35565 to settle disputes arising from such division of property. (California Code of Regulations, Title 5, Section 18573(a)(3))

County Committee Evaluation/Vote

The feasibility study (Attachment 3, page 17) addressed the following issues in its analysis of division of property and facilities:

(a) Property, Funds, and Obligations

The proposed Dixie-Terra Linda Unified SD would own all San Rafael City High SD real property within the boundaries of the current Dixie Elementary SD. The new San Rafael Unified SD would own all San Rafael City High SD real property within the boundaries of the current San Rafael City Elementary SD. The San Rafael City High SD's only continuation high school (Madrone) is located on San Rafael High School site, while the San Rafael High and Elementary SD's administrative offices are located on the Terra Linda High School site.

In the feasibility study, all other property, funds, and obligations, except bonded indebtedness, are divided pro rata among the districts based on average daily attendance (ADA). Thus, according to this study, the proposed Dixie-Terra Linda Unified SD would receive 38 percent of San Rafael City High SD's other property and funds and be responsible for 38 percent of San Rafael City High SD's obligations.

(b) Bonded Indebtedness

All three districts successfully passed school bonds in 1999. The feasibility study notes that, generally, outstanding bonded indebtedness is divided based on assessed valuation. Thus, according to the study, Dixie-Terra Linda Unified SD would take responsibility for approximately 32 percent of San Rafael City High SD's outstanding bonded indebtedness.

(c) Disputes

The feasibility study notes that MCC should be prepared to convene a board of arbitrators pursuant to Section 35565 to settle any disputes related to division of property.

Although the feasibility study indicates "that there are no identified reasons to conclude that property will not be divided in an equitable manner," the study specifically omits a recommendation regarding whether or not the criterion is substantially met.

The MCC voted 8-3 that this criterion is substantially met.

Staff Findings/Conclusion

Department staff finds that existing provisions of the *Education Code* may be utilized

to achieve equitable distribution of property, funds, and obligations of San Rafael City High SD, and concludes that this criterion has been substantially met. Staff further recommends the following:

- a. Capital assets and liabilities of San Rafael City High SD, except real property and the personal property and fixtures normally situated thereat, shall be divided on the basis of the relative assessed valuations of the new unified districts.
- b. Bonded indebtedness of San Rafael City High SD should be divided based upon the ratios of the assessed valuation of the property in the proposed new unified school districts to the assessed valuation in the current San Rafael City High SD.
- c. All other assets and liabilities of the San Rafael City High SD shall be divided based on the proportionate ADA of the students residing in the areas of the new unified districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes.
- d. Student body property, funds, and obligations shall be divided proportionately, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided. (Section 35564)
- e. As specified in Section 35565, disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed.

5.4 The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

Standard of Review

In Section 18573(a)(4), Title 5, California Code of Regulations, the State Board of Education set forth five factors to be considered in determining whether reorganization will promote racial or ethnic discrimination or segregation:

- (a) *The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.*
- (b) *The trends and rates of present and possible future growth or change in the total*

- (c) *population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.*
- (d) *The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or alleviate racial or ethnic discrimination or segregation.*
- (e) *The effect of factors such as distance between schools and attendance centers, terrain, geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.*
- (f) *The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.*

County Committee Evaluation/Vote

The following summary of 2000-01 enrollment data is presented in the feasibility study (Attachment 3, page 24):

<i>(in percent)</i>	Non-White Students	White Students
San Rafael HSD	44.0%	56.0%
San Rafael ESD	58.7%	41.3%
Dixie ESD	16.1%	83.9%

The feasibility study further notes the following:

- a. During 2000-01, the minority student population of San Rafael High School was 57 percent.
- b. During 2000-01, the minority student population of Terra Linda High School was 31 percent although the minority student population of Dixie Elementary SD (which shares the same enrollment area as Terra Linda High School) is only 16 percent. This difference could be due to one or more of the following three factors: (1) the enrollment area could have a higher proportion of non-white high school students than elementary students; (2) a significant number of minority students from the San Rafael High School enrollment area could be attending Terra Linda High School on intra-district transfer; (3) a high percentage of white high school students from the Terra Linda High School enrollment area could leave the public school system after middle school to attend private high school.
- c. The new unified districts would mirror the demographic makeup of the existing elementary districts.

The feasibility study concludes that, by quantitative measures, the enrollment of minority students in the new San Rafael Unified SD would be significantly different

than minority student enrollment in the proposed Dixie-Terra Linda Unified SD. However, the study recommends that the proposal substantially meets this criterion since the minority student population in San Rafael Unified SD would not exceed 75

percent (a standard for disproportionate minority student enrollment cited from the “Handbook for Conducting Racial and Ethnic Studies in School Districts”).

Chief petitioners agree with the feasibility study finding that minority student enrollment will not be disproportionate in any district, since minority student enrollment will not approach 75 percent in either of the new unified school districts and percentages of minority students in each high school will change little as a result of unification. However, the San Rafael school districts argue that the 75 percent standard is an “unduly narrow interpretation” that is not supportable, and that the analysis should focus on whether the reorganization promotes segregation, not on whether the reorganization creates a segregated district. The districts further argue that the feasibility study ignores the fact that Dixie-Terra Linda Unified SD would be a “segregated, white enclave.”

The MCC voted 7-4 that this criterion is substantially met.

Staff Findings/Conclusion

The CDE’s Office of Equal Opportunity (OEO) provides support to the CDE review of reorganization proposals. The OEO report on this proposal is Attachment 4 to the Board item.

OEO analyzed the five factors set forth in Section 18573 of Title 5, *California Code of Regulations* in light of information provided in the feasibility study, and compared their findings to California Basic Educational Data System (CBEDS) information on file with the CDE.

(a) Racial and Ethnic Enrollment: Analysis by District and School

OEO compared current school populations (from CBEDS) in the geographic area of the proposed Dixie-Terra Linda Unified SD with the student population in the new San Rafael Unified SD. OEO found that the minority student population currently attending schools within the geographic area of the proposed Dixie-Terra Linda Unified SD would be 18.1 percent of the total school population. OEO also found that the student population of the new San Rafael Unified SD would be 57.5 percent minority.

OEO notes that the schools directly affected by the proposal are the high schools. The reorganization would increase overall minority secondary student population by 13.8 percentage points in the San Rafael Unified SD, and specifically increase Hispanic secondary student enrollment from 28.2 percent to 41.6 percent.

(b) Racial and Ethnic Enrollment: Trends and Rates of Change

OEO charted K-12 racial/ethnic student enrollment growth for five years within the elementary school district areas. The percentage of minority students in both areas slightly increased over the five-year period. Minority students attending schools within the boundaries of the proposed Dixie-Terra Linda Unified SD area increased from 18.5 percent to 21.4 percent of the total K-12 student population. Minority students similarly increased from 53.4 percent to 58.4 percent of total K-12 student population attending schools within the new San Rafael Unified SD area.

(c) School Board Policies: Desegregation Plans and Programs

There are no current court-ordered desegregation plans or programs in any of the affected districts.

(d) Factors Affecting Feasibility or Integration

No information was provided to identify any specific effects of factors such as distance from schools, attendance areas, or geographic features on the feasibility of integration.

(e) Duty of School to Alleviate Segregation

OEO notes that the governing board of each affected school district has a duty to alleviate segregation, regardless of the cause. This duty would be reflected in the policies of any newly created school district.

OEO finds the net effect of this proposal to be that the new San Rafael Unified SD would be a minority-majority district and that Dixie-Terra Linda Unified SD would remain a 78.6 percent white majority district. OEO states that the proposal appears to deepen and create segregation and isolation of high school students in San Rafael, and therefore finds that it does not appear to be in substantial compliance with Section 35753(a)(4).

To provide further support for the OEO report, staff (from the Office of School District Organization, OEO, and the Legal Office) developed and analyzed a series of enrollment trends and projections for the San Rafael City High SD area. Attachment 5 contains a summary of these analyses that demonstrate the formation of Dixie-Terra Linda Unified SD and San Rafael Unified SD would promote segregation according to the guidelines contained in the “Handbook for Conducting Racial and Ethnic Studies in School Districts.”

Guidelines

The guidelines contained in the “Handbook for Conducting Racial and Ethnic Studies in School Districts” that are most relevant to the immediate discussion include the following:

The statutes do not provide a precise quantitative definition of segregation. In the analysis, the districts and/or affected school(s) are evaluated in terms of differences in racial/ethnic composition “before” and “after” the transfer or reorganization. There could be a finding of promotion of segregation when the following statistical conditions are present:

- 1. The minority group percentage in a district or affected schools is more than 50-60 percent as a result of the proposed transfer or reorganization, or becomes more than 50-60 percent as a result of the proposal, and is steadily increasing; and*
- 2. The trend and rate of minority group increase has been in evidence over a period of at last five years; and*
- 3. The trend will likely continue and become “disproportionate” in five years or less. This determination relies on the use of statistical data and analysis procedures.*

The “Handbook for Conducting Racial and Ethnic Studies in School Districts” addresses “disproportionate” as follows:

As a general rule, minority student enrollment of approximately 75 percent may be characterized as disproportionate. Lower limits such as 60-65 percent may also be considered disproportionate if records over a significant period of time (at least five years) and an assessment of present and future demographic factors indicate the minority percentage has been steadily increasing and will likely continue to do so.

Application of Guidelines

In the following paragraphs, enrollment trends developed and analyzed by staff are discussed in the context of the guidelines contained in the “Handbook for Conducting Racial and Ethnic Studies in School Districts.”

- 1. The minority group percentage of the district is more than 50-60 percent as a result of the proposed reorganization.*

The proposed reorganization would create two new unified school districts—Dixie-Terra Linda Unified and San Rafael Unified. Using the most current enrollment figures², San Rafael Unified SD would be **58.9 percent** minority. Staff is particularly concerned about promotion of segregation at the secondary level (grades 9-12). Currently, San Rafael City High School District is 42.7 percent minority. The proposed reorganization would create a secondary program in San Rafael Unified that would be **53.3 percent** minority.

²For this discussion, 2001-02 CBEDS enrollment data are used. Reported numbers and percentages may differ from those in the MCC feasibility study and the OEO report, which both used 2000-01 CBEDS data.

2. *The trend and rate of minority group increase has been in evidence over a period of at least five years.*

Enrollment data demonstrate that minority student enrollment in all affected districts has been increasing steadily over the past years and should continue to increase steadily for the foreseeable future. Findings in the Marin County feasibility study, as well as information submitted by the chief petitioners and San

Rafael City Schools, concur that minority student enrollment has been increasing steadily and will continue to do so in the future.

3. *The trend will likely continue and become "disproportionate" in five years or less. According to the "Handbook for Conducting Racial and Ethnic Studies in School Districts" "disproportionate" may be defined as **60-65 percent** minority when the percentage of minority students is steadily increasing.*

Five-year enrollment projections suggest that San Rafael Unified SD will be **64.6 percent** minority in 2006-07 if the proposed reorganization is successful. As stated previously, staff concerns regarding promotion of segregation are particularly targeted at the high school level. Enrollment projections for San Rafael City High School District indicate that that district will be 49.4 percent minority by 2006-07 with no reorganization. The proposed reorganization would create a secondary program in San Rafael Unified that would be **61.2 percent** minority by 2006-07.

Rationale for Using Districtwide Percentages

CDE staff has indicated that a primary concern with the proposed reorganization is the effect it would have on the minority student population at the high school level. Questions have been raised regarding this finding in light of the fact that the actual percentages of minority students at the two affected high schools (San Rafael and Terra Linda) would not change much. However, the guidelines in the "Handbook for Conducting Racial and Ethnic Studies in School Districts" state:

Districtwide percentages are given primary consideration if there are relatively few schools in the affected district(s). Districtwide percentages are of limited value when applied to very large districts or if affected schools are distant from each other or if geographic, safety, or other factors must be considered. In such cases, only "affected" schools are considered in the analysis.

San Rafael and Terra Linda high schools are both located within the City of San Rafael (2000 Census population = 56,000) and are slightly more than four miles apart. No significant factors of geography or safety are apparent. In fact, approximately 30 percent of the students enrolled at Terra Linda High School live within San Rafael City Elementary School boundaries and commute to Terra Linda on a daily basis. Thus, in accordance with existing guidelines, primary consideration has been given to districtwide percentages. The proposed reorganization would turn a high school

district that is 42.7 percent minority into two secondary programs within separate unified school districts, one that would be 53.3 percent minority (San Rafael) and one that is 22.7 percent minority (Dixie-Terra Linda). The following table depicts the effects of minority student population as a result of the proposed unification.

	% Minority Students
Current District Organization (2001-02)	
Dixie Elementary SD	18.0%
San Rafael City Elementary SD	61.0%
San Rafael City High SD	42.7%
<i>Terra Linda High School</i>	<i>30.1%</i>
<i>San Rafael High School</i>	<i>55.9%</i>
Proposed District Organization	
Dixie-Terra Linda Unified SD	19.3%
<i>Terra Linda High School</i>	<i>22.7%</i>
San Rafael Unified SD	58.9%
<i>San Rafael High School</i>	<i>53.3%</i>

Moreover, the focus on districtwide percentages is important for this particular proposal since the availability of two proximate high schools has allowed a districtwide balancing of student populations in the past. The effect of the proposal on the future ability to balance student populations is discussed in more detail in the next section.

Duty of School to Alleviate Segregation

OEO, in its report, notes that the governing board of each affected school district has a duty to alleviate segregation regardless of the cause. OEO further notes that this duty would be reflected in the policies of any newly created school district. Staff additionally finds that the proposed unification would have a negative effect on the governing boards' duty "to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of cause." With two high school sites, the San Rafael City High SD currently has the ability to balance student populations when needed. As noted in the MCC feasibility study (Attachment 3, page 41), the district encouraged English Language Learners (EL students), who lived within the San Rafael City Elementary SD, to attend Terra Linda High School in order to alleviate pressures on the impacted EL program at San Rafael High School. Splitting the high school district into two unified districts (each with one high school) will eliminate this ability to balance student population when necessary.

Qualitative Characteristics

The “Handbook for Conducting Racial and Ethnic Studies in School Districts” allows a discussion of the qualitative characteristics of “promotion of segregation” in addition to the quantitative characteristics. A qualitative characteristic is *one that deprives minority students of an “integrated educational experience.”* Staff has identified two such qualitative characteristics.

First, the proposed reorganization would eliminate the open enrollment process that currently is used by a significant portion of the Terra Linda High School students. Approximately 30 percent of the total Terra Linda student population attends that school through district open enrollment policy. Those students represent over 50 percent of the Terra Linda minority student population. Thus, the proposed reorganization would remove over half of the minority students currently attending Terra Linda and place them in a less integrated educational environment. Similarly, the remaining students at Terra Linda High School would be educated in a less integrated educational environment.

Second, the proposed reorganization significantly concentrates minority students within the new San Rafael Unified School District but specifically concentrates Hispanic students. At the secondary level, Hispanic students currently comprise 27 percent of the entire high school student population. The proposed reorganization would increase that percentage to almost 40 percent in the San Rafael Unified District; and five-year projections indicate that, by 2006-07, Hispanic students would comprise almost half of the entire high school student population. CDE staff believes that such a concentration of one minority group (almost half of the entire student population) deprives minority students of an “integrated educational experience.”

Summary

Staff disagrees with the MCC feasibility study recommendation that this criterion is substantially met. That recommendation appears to staff to be guided primarily by a standard that minority student enrollment is disproportionate only upon reaching 75 percent of a district’s population. Staff believes that the 60-65 percent standard applies to the current proposal since minority student population has been increasing steadily in the districts and is projected to continue increasing. Staff concurs with the findings of OEO, disagrees with the findings of the MCC, and concludes that this criterion is not substantially met because:

1. Segregation of students is promoted, according to analyses driven by guidelines contained in the “Handbook for Conducting Racial and Ethnic Studies in School Districts.”
2. Minority students would be deprived of “integrated educational experiences.
3. Efforts of the San Rafael Unified SD to fulfill its obligation to alleviate segregation could be hindered.

5.5 The proposed reorganization will not result in any substantial increase in costs to the state.

Standard of Review

Education Code sections 35735 through 35735.2 mandate a method of computing revenue limits without regard to this criterion. Although the estimated revenue limit is considered in this section, only potential costs to the state other than those mandated by sections 35735 through 35735.2 are used to analyze the proposal for compliance with this criterion.

County Committee Evaluation/Vote

The feasibility study includes calculations of projected revenue limits for the two new unified school districts. Based on these calculations, unification of the Dixie Elementary SD will increase the revenue limit for that area by 4.4 percent, while unification of the San Rafael City Elementary SD will increase the revenue limit for that area by 4.5 percent. (Attachment 3, page 30) It was also reported in the feasibility study that the proposed reorganization would have minimal effect on state costs for special categorical programs, transportation, and facilities.

The Educational Revenue Augmentation Fund (ERAF), which is a fund for education comprised of local property tax revenue, is applied to meet the state-established revenue limit for each district. The feasibility study recommends that this criterion is substantially met by the proposal, in part because ERAF more or less offsets any increase in state aid.

The MCC voted unanimously (11-0) that this criterion is substantially met.

Staff Findings/Conclusion

Should the proposed districts become effective for all purposes, the revenue limits for the two new unified school districts will be calculated by staff in the CDE Principal Apportionment Unit using information submitted by the MCOE based on second prior fiscal year data (2002-03 for a July 1, 2004 effective date), including any adjustments for which the proposed district may be eligible. Staff estimates that revenue limit funding will increase by approximately five percent as a result of formation of the two new unified districts. As stated previously, increases in revenue limit funding due to reorganization are not considered to be increased costs to the state since these funding increases are statutorily capped.

State costs for transportation, categorical programs, regular programs, and special education should not be affected significantly by the proposed reorganization since, typically, funding for these programs would follow the students.

The proposal may result in some increased costs due to ERAF shifts. Increased revenue limit state aid, due to the new districts' higher revenue limits and the loss of a basic aid district (should that occur) could result in ERAF monies shifting from other educational programs (e.g., special education) to cover the increased revenue limit. This shift could result in increased state costs for special education to cover the

reduction in ERAF dollars. However, staff is unable to speculate about the possibility of basic aid status for either of the new unified districts (see the Criterion 9 analysis in this attachment) and is therefore unable to speculate about potential changes in funding due to ERAF shifts.

Staff agrees with the conclusion of the feasibility study that the proposal substantially meets this criterion.

5.6 The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.

Standard of Review

The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition, and the California Department of Education shall describe the districtwide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition. (Section 18573(a)(5), Title 5, California Code of Regulations)

County Committee Evaluation/Vote

The MCC feasibility study (Attachment 3, page 35) focuses on the potential effects the reorganization may have on the high school educational program, noting that the reorganization does not affect existing elementary school district boundaries. The study concludes that the reorganization will have little to no effect on the core educational areas at the high school level, since both high schools perform above state and national averages (based on SAT scores, STAR test results, and other accountability measures), have access to good core programs, and benefit from many specialized programs and classes. However, the feasibility study also concludes that the reorganization may affect the alternative education program, facilities, and programs currently shared by the two high schools, existing and planned academies within each of the two high schools, teachers' professional opportunities, and programs for groups of students such as English Language Learners and gifted/advanced students. Because of uncertainty that all students' learning needs could be met after the proposed reorganization, no recommendation regarding this criterion was included in the feasibility study.

The San Rafael districts argue that the reorganization fails to meet the criterion since it would result in the concentration of low income, limited English speaking high school students in the new San Rafael Unified SD. The new district will have greater pressures placed upon it to offer special, remedial, enrichment, and language development programs at the expense of advanced and AP courses. The districts also argue that the reorganization would create two secondary programs with one high school each, resulting in the loss of the numerous advantages of a multiple high school system such as shared use of facilities, staff collaborations, and broader course

offerings.

Petitioners argue that the reorganization will not affect the existing educational programs at either high school and will enhance program articulation between middle school and high school. They also argue that any shared programs between the two high schools serve relatively small numbers of students and could easily be duplicated in the separate districts. Petitioners further note that there exists substantial evidence that small high schools in small districts provide high quality educational programs.

The MCC voted 9-2 that this criterion is substantially met.

Staff Findings/Conclusion

The Evaluation and Analysis Unit in CDE's Policy and Evaluation Division (PED)

provides support in reviewing the educational implications of school district reorganization proposals. To assess the educational impacts of the proposed reorganization, PED staff reviewed the feasibility study and materials submitted by the petitioners and districts. A report prepared by PED (Attachment 6) finds that the Terra Linda High School has the San Rafael City High SD's highest academic performance, and also has substantially lower rates of dropouts, English Learners, students scoring below the 50th percentile on the Stanford-9, students served by Title I programs, and students participating in the free or reduced price meals program. The report concludes that the secondary program in San Rafael Unified SD, after the departure of Terra Linda High School, would face substantial challenges educating its remaining students.

The following sections provide a review of data and issues that are either contained in the PED report or are included in this section to complement the PED report.

(a) Academic Performance Index

The California Academic Performance Index (API) provides a means to compare the performance of schools and districts in the state. The following table compares the 2001 and 2002 API Base scores of the two affected high schools.

2001/2002 Base API Scores

High School	2001 API Base	2002 API Base³
San Rafael	633 (statewide rank=5)	620 (statewide rank=5)
Terra Linda	711 (statewide rank=8)	729 (statewide rank=9)

³The 2002 API Similar Schools Ranks are "2" for San Rafael High and "4" for Terra Linda High.

(b) English Learner Students

The state Language Census collects the number of English Learner (EL) students (formerly known as Limited-English-Proficient or LEP), and other related data. The following table aggregates the 2001-02 Language Census data for affected schools in the proposed unified school districts, as well as for the schools in the current districts.

English Learner Students by Proposed Unified School District

District*	Student Population	EL Student Population	% EL Students
Dixie Elementary SD	1,830	134	7.3%
San Rafael City Elementary SD	3,541	1,354	38.2%
San Rafael City High SD	1,996	290	14.5%
Proposed DTLUSD	2,852	193	6.8%
New SRUSD	4,515	1,585	35.1%

* Data do not include alternative education programs and are not adjusted for intra-district transfers

The student population in the new San Rafael Unified SD would have a significantly greater percentage of EL students than would the proposed Dixie-Terra Linda Unified SD.⁴

(c) Annual CalWORKs⁵ Data Collection

The annual CalWORKs (formerly known as AFDC) data collection gathers information including the number of CalWORKs children residing in the school attendance area and the number of students enrolled in free or reduced-price meal programs. The following table presents this 2001-02 information for the schools in the proposed Dixie-Terra Linda Unified SD and the new San Rafael Unified SD, as well as for the schools in the current districts.

CalWORKs Students and Students in Free or Reduced Price Meals Program by District

District	% CalWORKs Students	% Students in Meals Program
Dixie Elementary SD	0.9%	3.9%
San Rafael City Elementary SD	6.0%	49.9%
San Rafael City High SD	3.9%	18.5%
Proposed DTLUSD	0.8%	5.4%
New SRUSD	5.5%	43.1%

⁴ Although the focus of this analysis is on the effects at the secondary program level, total enrollment (K-12) has been used to calculate EL percentages. Approximately 30% of the Terra Linda High School students would transfer to San Rafael High School and information regarding the numbers of EL students in this 30% is unavailable. The 2001-02 Language Census reports that 5.8% of students attending Terra Linda High School are EL, while 23.7% of students attending San Rafael High School are EL.

⁵ California Work Opportunity and Responsibility to Kids – a product of the Welfare to Work Act of 1997.

As can be seen in the previous table, the proposed Dixie-Terra Linda Unified SD would have significantly fewer students in CalWORKs and the Free/Reduced-Price Meals Program than would the new San Rafael Unified SD.

(d) High School Flexibility

Approximately two-thirds of the unified school districts in California have only one high school. Although staff agrees with proponents that unified districts with a single, small high school can offer an effective and balanced educational program, transition from a district with multiple high schools to a district with a single high school does offer some disadvantages. Staff reassignments are difficult, if not impossible, in a district that has only one school for a particular grade level. Similarly, students who would benefit from placement in a different environment will have nowhere to transfer within the district.

Staff agrees with the PED report and with many of the concerns raised in the feasibility study. Both high schools in the current San Rafael City High SD perform quite well academically, as measured through standardized assessments. However it is staff's opinion that, under the proposed reorganization, the Dixie-Terra Linda Unified SD educational program would continue to fare well (and perhaps be enhanced) at the expense of the secondary education program in the new San Rafael Unified SD. As stated in the PED report: "The reorganization is not, as the proponents of the petition would suggest, a win-win proposal. It is more nearly a zero-sum game."

Unification would force the two high schools to reflect the demographic makeup of the current elementary school districts and significantly reduce options to balance student populations. San Rafael Unified SD would be confronted with educating a significantly different secondary student population. The students, on average, would have lower test scores. Dropout rates would be higher. The percentages of EL students and lower income students would be significantly increased. The increased concentrations of lower income and EL students district-wide could shift the focus of the educational program and would increase per student educational program costs in the district (since such students typically require increased levels of services); thus threatening educational variables and programs such as "quality of teachers, class size, and the breadth of course offerings." (Attachment 6, page 3)

Staff agrees with the concern expressed in the feasibility study that "the needs of students requiring special opportunities and services have not been fully addressed." The feasibility study further indicates that this criterion is not substantially met if provisions are not made to ensure that all students' learning needs are met. Staff finds that, because San Rafael USD would be confronted with educating a significantly different secondary student population (compared to San Rafael City High SD), there would be significant threats to the new district's ability to ensure that all students' learning needs are met.

For all of the above reasons, staff finds that Criterion 6 is not substantially met.

5.7 The proposed reorganization will not result in a significant increase in school housing costs.

County Committee Evaluation/Vote

The feasibility study reports that the proposed reorganization would have limited effect on the facilities in either the proposed Dixie-Terra Linda Unified SD or the new San Rafael Unified SD. Both high school sites can house approximately 2,000 students, and currently house approximately half that figure. This excess capacity would allow the proposed Dixie-Terra Linda Unified SD to house a continuation/alternative education program at Terra Linda High School. The study recommends that this criterion is substantially met. (Attachment 3, page 44)

The MCC voted 8-3 that this criterion is substantially met.

Staff Findings/Conclusion

The CDE's School Facilities Planning Division (SFPD) provides support to the CDE review of reorganization proposals. The SFPD report is Attachment 7 to this Board item. Based on analysis of information available, SFPD concurs with the findings in the feasibility study that the proposed reorganization will not result in a significant increase in school housing costs.

Given the above considerations, staff agrees with the finding of the MCC that this criterion is substantially met.

5.8 The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.

County Committee Evaluation/Vote

The feasibility study identified no evidence that the proposal is primarily designed to increase property values in the territory proposed for reorganization and recommends that this criterion is substantially met. (Attachment 3, page 46).

The MCC voted unanimously (11-0) that this criterion is substantially met.

Staff Findings/Conclusion

No evidence was presented to indicate that the proposed formation of the Dixie-Terra Linda Unified SD would increase property values in the petition area. Nor is there any evidence from which it can be discerned that an increase in property values could be the primary motivation for the proposed unification. Staff concludes this criterion has been substantially met.

5.9 The proposed reorganization will not cause a substantial negative effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

County Committee Evaluation/Vote

Based on 2000-01 data, the MCC feasibility study (Attachment 3, page 49) determined that the recalculation of the districts' revenue limits due to the reorganization would result in a Dixie-Terra Linda Unified SD revenue limit increase of \$552,149 over the blended revenue limit of Dixie Elementary SD and the Terra Linda portion of San Rafael City High SD. The revenue limit for the new San Rafael Unified SD would increase by \$969,684 over the blended revenue limit of San Rafael City Elementary SD and the corresponding portion of San Rafael City High SD. Since these increases represent the costs to raise classified and certificated salaries to the level of the highest paying district, the feasibility study identifies increased salary expenditures of up to \$552,149 for the proposed Dixie-Terra Linda Unified SD and \$969,684 for the new San Rafael Unified SD.

The study also assumes that neither Dixie-Terra Linda Unified SD nor San Rafael Unified SD will be eligible for basic aid funding. Since San Rafael City High SD currently is a basic aid district, the reorganization will result in loss of approximately \$1.2 million in basic aid funding if neither new unified district achieves basic aid status. This loss in funding offsets a majority of the revenue limit increase described previously.

The feasibility study concludes that the new unified districts will realize a combined net increase in revenue of approximately \$350,000. The new districts also could be faced with new expenditures, primarily increased classified and certificated salaries. In the view of the feasibility study, the financial viability of both the proposed Dixie-Terra Linda Unified SD and the new San Rafael Unified SD would be dependent upon management decisions identifying staffing and other organization efficiencies due to the reorganization, and adopting reasonable salary schedules. Because of these qualifications, the feasibility study makes no recommendation regarding whether the reorganization substantially meets this criterion.

The San Rafael school districts argue that reorganization would result in the loss of the basic aid funding currently received by the San Rafael City High SD. This funding loss, according to the districts, would have serious fiscal implications. However, the chief petitioners argue that the revenue limit increase attained through reorganization would exceed the basic aid funding that would be lost because of the reorganization.

The MCC voted 7-3 (with one abstention) that this criterion is substantially met.

Staff Findings/Conclusion

To assess the financial impact of the proposed unification, the CDE Office of Management Assistance and Categorical Programs (MACP) reviewed information

provided by the MCOE, the affected districts, and the chief petitioners. The MACP report (Attachment 8) includes the following findings:

- a) Based on 2001-02 data, the revenue limit of the proposed Dixie-Terra Linda Unified SD would increase by \$751,008 over the blended revenue limit of Dixie Elementary SD and the Terra Linda portion of San Rafael City High SD. Similarly, the revenue limit for the new San Rafael Unified SD would increase by \$1,072,954.
- b) It will not be necessary for the new unified districts to expend this entire revenue limit increase since the differentials among certificated salary schedules in the three existing salary schedules are minimal.
- c) The existing high school district is basic aid and the two existing elementary districts are very close to basic aid status. Therefore, it cannot be determined with certainty at this time whether or not the new unified districts will achieve basic aid status.

Projections in the MACP report show both new unified districts deficit spending. However, since all three existing districts were projecting deficits for the 2001-02 fiscal year, the new districts will be no worse off financially than prior to reorganization. In fact, the report indicates that the new districts have potential to be in a better financial situation based on the increased revenue limit. The MACP report concludes that this criterion is substantially met.

CDE staff agrees with the findings of the MACP report and concludes this criterion has been substantially met.

6.0 COUNTY COMMITTEE SECTION 35707 REQUIREMENTS

Section 35707 requires the county committee on school district organization to make certain findings and recommendations and to expeditiously transmit them along with the reorganization petition to the SBE. These required findings and recommendations are:

6.1 County Committee Recommendation for the Petition

A county committee must recommend to the SBE approval or disapproval of a petition for unification. The MCC voted 7-4 to recommend approval of the proposal to form Dixie-Terra Linda Unified SD.

6.2 Effect on School District Organization of the County

Section 35707 requires a county committee to report whether the proposal would adversely affect countywide school district organization. The MCC voted 11-0 that the proposal would not adversely affect countywide school district organization.

6.3 County Committee Opinion Regarding Section 35753 Conditions

A county committee must submit to the SBE its opinion regarding whether the proposal complies with the provisions of Section 35753. The MCC found that all nine criteria in Section 35753(a) were substantially met by the following votes:

- Adequate Enrollment (11-0);
- Community Identity (7-4);
- Equitable Division of Property (8-3);
- Promotion of Segregation (7-4);
- Increased Costs to State (11-0);
- Educational Program (9-2);
- Increased Housing Costs (8-3);
- Increased Property Values (11-0); and
- Financial Effects (7-3 with one abstention).

7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION

The SBE has authority to amend or add certain provisions to any petition for unification. This section contains CDE staff recommendations for such amendments.

7.1 Article 3 Amendments

Petitioners may include, and the county committee or SBE may add or amend, any of the appropriate provisions specified in Article 3 of the *Education Code* (commencing with Section 35730). These provisions include:

Membership of Governing Board

A proposal for unification may include a provision for a governing board of seven members. The petition contains no provision addressing the size of the governing board, thus, the governing board of Dixie-Terra Linda Unified SD (if approved) would have five members.

Trustee Areas

The proposal for unification may include a provision for establishing trustee areas for the purpose of electing governing board members of the unified district. No provision regarding trustee areas for governing board elections is included in this petition.

Election of Governing Board

A proposal for unification may include a provision specifying that the election for the first governing board be held at the same time as the election on the unification of the school district. The petition includes such a provision. However, the *Education Code* further requires that, if this provision is included, the proposal also specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms which expire in years with regular election dates. No such method was included in the petition or added by the MCC.

CDE staff recommends that the following method be employed to ensure the staggering of the terms of office for governing board members:

The three governing board candidates receiving the highest number of votes will have four-year terms and the two candidates receiving the next highest number of votes will have two-year terms. All terms will be for four years in subsequent governing board elections.

Computation of Base Revenue Limit

A proposal for reorganization of school districts must include a computation of the base revenue limit per ADA for each reorganized district. Staff has calculated a revenue limit per ADA of \$5,500 for the proposed Dixie-Terra Linda Unified SD based upon 2001-02 data (Attachment 8). Should the proposed district become effective for all purposes, the revenue limit will be adjusted using information based on second prior fiscal year data (2002-03 for a July 1, 2004 effective date), including any adjustments for which the proposed district may be eligible.

Division of Property and Obligations

A proposal for the division of property (other than real property) and obligations of any district whose territory is being divided among other districts may be included. As indicated in 5.3 of this attachment, CDE staff finds that existing provisions of the *Education Code* may be utilized to achieve equitable distribution of property, funds, and obligations of San Rafael City High SD, and concludes that this criterion has been substantially met. Staff further recommends the following:

- (a) Capital assets and liabilities of San Rafael City High SD, except real property, shall be divided on the basis of the relative assessed valuations of the new unified districts.
- (b) All other assets and liabilities of the San Rafael City High SD shall be divided based on the proportionate ADA of the students residing in the areas of the new unified districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes.
- (c) Student body property, funds, and obligations shall be divided proportionately, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided. (Section 35564)
- (d) As specified in Section 35565, disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county

superintendent of schools. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed.

Method of Dividing Bonded Indebtedness

A proposal for unification may include a method of dividing the bonded indebtedness other than the method established in Section 35576 for the purpose of providing greater equity in the division. Staff recommends that bonded indebtedness of San Rafael City High SD should be divided based upon the ratios of the assessed valuation of the property in the proposed new unified school districts to the assessed valuation in the current San Rafael City High SD.

7.2 Area of Election

A provision specifying the territory in which the election to reorganize the school districts will be held is one of the provisions under Article 3 (see 7.1 above) that the SBE may add or amend. However, the inclusion of this provision is highlighted since Section 35756 indicates that, should the SBE approve the proposal, the SBE must determine the area of election.

The area proposed for reorganization is the Dixie Elementary SD. Thus, the “default” election area is this school district (Section 35732). The SBE may alter this “default” election area if it determines that such alteration complies with the following area of election legal principles.

Area of Election Legal Principles

The Local Agency Formation Commission (LAFCO)⁶ court decision provides the most current legal interpretations to be followed in deciding the area of school district reorganization elections. This decision upheld a limited area of election on a proposal to create a new city, citing the “rational basis test.” The rational basis test may be used to determine whether the area of election should be less than the total area of the district affected by the proposed reorganization unless there is a declared public interest underlying the determination that has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, or racial issues. If so, a broader area of election is necessary.

In applying the rational basis test, a determination must be made as to whether:

- (a) There is a genuine difference in the relevant interests of the groups,

⁶*Board of Supervisors of Sacramento County, et al., v. Local Agency Formation Commission* (3 Cal. 4th 903, 1992)

in which case an enhancement of the minority voting strength is permissible.

- (b) The reduced voting area has a fair relationship to a legitimate public purpose. The fair relationship to a legitimate public purpose is found in *Government Code* Section 56001, which expresses the legislative intent "to encourage orderly growth and development," such as promoting orderly school district reorganization statewide that allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept includes both:
1. Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district; and
 2. Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

However, even under the rational basis test, a determination to reduce the area of election would, according to LAFCO, be held invalid if the determination constituted an invidious discrimination in violation of the constitutional Equal Protection Clause (e.g., involving a racial impact of some degree).

CDE Staff Recommendation for Area of Election

As indicated in the Section 35753 criteria analysis, CDE finds that the proposed reorganization would disrupt delivery of the educational programs and increase concentrations of EL and low-income secondary students in the new San Rafael Unified SD. It is the opinion of CDE that, under LAFCO, this negative effect on the San Rafael Unified SD educational program constitutes a significant adverse impact on the district.

Also, as indicated in the Section 35753 criteria analysis, CDE finds that the proposed reorganization would concentrate minority secondary students in the new San Rafael Unified SD. It is the opinion of CDE that, under LAFCO, this constitutes a significant racial/ethnic impact on that district.

Finally, the formation of Dixie-Terra Linda Unified SD would trigger the subsequent unification of the San Rafael City Elementary SD with the remainder of the San Rafael City High SD. Thus, the local education structure for the residents of the entire high school district would be affected.

Should the SBE approve the unification proposal, staff recommends that the SBE establish the entire San Rafael City High SD as the area of election.

8.0 STATE BOARD OF EDUCATION OPTIONS

Sections 35753 and 35754 outline the SBE's options:

- (a) The SBE shall approve or disapprove the proposal.
- (b) The SBE may approve the proposal if it determines all the criteria in Section 35753(a) have been substantially met.
- (c) The SBE may approve the proposal pursuant to Section 35753(b) if it determines the criteria in Section 35753(a) are not substantially met but it is not possible to apply the criteria literally and an exceptional situation exists.
- (d) If the SBE approves the formation of the proposed districts, it may amend or include in the proposal any of the appropriate provisions of Article 3, commencing with Section 35730. In this case, several items would be incorporated into the proposal and also approved if the SBE approves the overall petition:
 - 1) That the governing board will have five members elected at-large with the first governing board election held at the same time as the election on unification. To ensure staggered terms of office, the three governing board candidates receiving the highest number of votes will have four-year terms and the two candidates receiving the next highest number of votes will have two-year terms.
 - 2) Bonded indebtedness of San Rafael City High SD should be divided based upon the ratios of the assessed valuation of the property in the proposed new unified school districts to the assessed valuation in the current San Rafael City High SD.
 - 3) Capital assets and liabilities of San Rafael City High SD, except real property and the personal property and fixtures normally situated thereat, shall be divided on the basis of the relative assessed valuations of the new unified districts.
 - 4) All other assets and liabilities of the San Rafael City High SD shall be divided based on the proportionate ADA of the students residing in the areas of the new unified districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes.
 - 5) That any disputes involving the division of property, funds, and obligations will be resolved through binding arbitration pursuant to Section 35565.
- (e) The SBE must determine the area of election (Section 35756). As previously discussed, staff recommends the territory of the entire high school district as the area of election if the SBE should choose to approve the petition contrary to CDE staff recommendations.

9.0 RECOMMENDED ACTION

Staff recommends that the SBE adopt the proposed resolution (Attachment 2) disapproving the petition to form the Dixie-Terra Linda Unified SD. If the SBE should decide to approve the petition, an alternative resolution is provided as Attachment 9, which includes the proposed amendments to the petition.

CALIFORNIA STATE BOARD OF EDUCATION
May 2003

PROPOSED RESOLUTION

Petition to Form the Dixie-Terra Linda Unified School District
from the Dixie Elementary School District and the
Corresponding Portion of San Rafael City High School District

RESOLVED, that under the authority of *Education Code* Section 35754, the proposal to form a new unified school district from Dixie Elementary School District and the corresponding portion of San Rafael City High School District, which was filed on or about February 13, 2001, with the Marin County Superintendent of Schools pursuant to *Education Code* Section 35700(a), is hereby disapproved because the proposal does not substantially comply with the provisions of Section 35753(a) of the *Education Code*; and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Marin County Superintendent of Schools, the chief petitioners, the Dixie Elementary School District, the San Rafael City Elementary School District, and the San Rafael City High School District of the action taken by the State Board of Education.

CALIFORNIA STATE BOARD OF EDUCATION
May 2003

ALTERNATIVE RESOLUTION

Petition to Form the Dixie-Terra Linda Unified School District
from the Dixie Elementary School District and the
Corresponding Portion of San Rafael City High School District

RESOLVED, that under the authority of *Education Code* Section 35754, the proposal to form a new unified school district from Dixie Elementary School District and the corresponding part of San Rafael City High School District, filed on or about February 13, 2001 with the Marin County Superintendent of Schools pursuant to Education Code Section 35700(a), is hereby approved.

RESOLVED further, that the base revenue limit per unit of average daily attendance is \$5,500 based on 2001-02 data and shall be recalculated using second prior fiscal year data from the time the unification becomes effective for all purposes; and be it

RESOLVED further, that capital assets and liabilities, except real property and the personal property and fixtures normally situated thereat, shall be divided on the basis of the relative assessed valuations of the proposed new unified district and the remaining San Rafael City High School District; and be it

RESOLVED further, that all other assets and liabilities of the San Rafael City High School District shall be divided based on the proportionate average daily attendance of the students residing in each section of the reorganized district on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes; and be it

RESOLVED further, that bonded indebtedness of San Rafael City High SD shall be divided based upon the ratios of the assessed valuation of the property in the proposed new unified school districts to the assessed valuation in the current San Rafael City High SD; and be it

RESOLVED further, that the governing boards shall consist of five members elected at large, with the first governing board elections held at the same time as the election on the unifications and staggered terms of office ensured by the three governing board candidates with the highest number of votes receiving four-year terms and the two candidates with the next highest number of votes receiving two-year terms; and be it

RESOLVED further, that the State Board of Education shall direct the county superintendent of schools to call for the election and sets the area of election to be the territory of the entire San Rafael City High School District; and be it

RESOLVED further, that the Secretary of the State Board of Education shall notify, on behalf of said Board, the Marin County Superintendent of Schools, the Dixie School District, the San Rafael City Elementary School District, the San Rafael City High School District, and the chief petitioners of the action taken by the State Board of Education.